No. R/6/Plots/General/ of 1951.

Directorate of Rehabilitation,
Government of Bombay,
Bombay 1, 19th November 1951.

To

The Secretary to the Government of Bombay,
Rehabilitation Department,
Bombay.

SUBJECT: UNAUTHORISED CONSTRUCTIONS IN COLONIES IN GREATER BOMBAY AND THANA.

When the refugee problem was in its inception and the Camps were first started in Greater Bombay and Thana, the displaced persons who were sent to settle there had to struggle very hard against heavy odds to maintain themselves and their families, there being practically no amenities or conveniences which even small towns and villages ordinarily afford. The displaced persons were therefore placed in a very relaxed and unfamiliar surroundings and as most of them were unemployed they were living on free rations and cash doles and were thus a heavy burden on Government.

2. In order to open out avenues for their employment and make them self-reliant and free from idle mentality, it was thought advisable to allot plots temporarily to the deserving displaced persons in the colonies who were willing to start business. By this measure it was hoped that not only the displaced persons would be benefitted but the camps also would automatically become full-fledged and self-contained economic units, very little relying on outside help.

3. In pursuance of this decision, plots were allotted to the displaced persons on purely temporary basis in consultation with the Officers Incharge of the colonies, the P.W.D. and the Townplanning and Survey Department. The views of the latter two Departments were obtained with a view to ensure that these temporary allotments would not conflict with or come in the way of the master plan when it is ready for execution. A copy of the temporary permit laying down the terms of the agreement and the undertaking to be executed by the allottee is enclosed herewith for information.

4. In the initial stage, this problem did not present any difficulty and things went on smoothly. With the passage of time, however, the matters took a different turn for some of the displaced persons finding that the neighbours were allotted plots for shops, started constructing their own structures without the knowledge of this Directorate in the most haphazard and irregular manner. In some cases the structures have been simple cabins made up of planks of wood or asbestos sheeting etc. and constructed overnight without the knowledge of the Officers Incharge of the colonies. These structures are not only unauthorised but are also placed in such a manner that they disturb the layout of the colonies. In some cases the constructions were pucca structures prepared out of mortar cement etc. whereas in others they encroach upon the plots already allotted to other displaced persons. In many cases the plots already allotted have been transferred by the

allottees quietly to others by mutual understanding without the knowledge of this office. In consequence irregular constructions have sprung up like mushrooms over there in the colonies and they present a most detestable and disgusting appearance to the colonies. Attempts were made to put a stop to and regularize the matter but they have all proved fruitless. Even the warnings and notices issued on the displaced persons to remove all the unauthorised and irregular structures had not the desired effect. As a matter of fact, there are no legal powers under which displaced persons who pay no heed to the notices issued on them. Being emboldened by this fact, the displaced persons have become all the more adament and now treat the warnings issued on them with scant respect.

5. In order that the situation may not go out of control and execution of the master plan in the colonies may not be delayed, I consider that it is necessary to entrust this work (viz.removing the unauthorised structures) to the Collectors of Bombay, B.S.D. and Thana as they are invested with the necessary powers and also look after problems connected with land. In districts, the Collectors are already in charge of this work and it will not be out of the way if this work is entrusted to the Collectors concerned.

6. Before a final decision is taken in the matter, I however request that the matter may please be referred to the Secretary of Legal Affairs for his opinion.

7. A very early compliance is requested as this office is receiving innumerable complaints from the displaced persons in the colonies.

sd/-
DIRECTOR OF REHABILITATION,
Govt. of Bombay.

No.Shop/2/A.O./1

Date

T_E_M_P_O_R_A_R_Y P_E_R_M_I_T_S:

Sub: PLOT FOR _____

Ref: His application dated _____

Messrs/Shri _____

of room No. _____ Barrack No. _____ Section No. _____ Camp-N
_____ is/are authorised the use of the plot drawn on the dia-
gram below in the Camp /on the main road, for the construction o
of a tempo rary structure without lime and brick mensonary sul
ject to the following conditions :-

TERMS OF AGREEMENT.

(1) The construction takes place 30 feet from the con of the road and 2 feet interior of the electric pole.
(2) The structure is subject to a short removal notice when required by the Govt.at owner's cost.
(3) The grant is temporary and rent shall be paid in a monthly basis at such rates as may be fixed by the authorities.
(4) The permission to construct is valid for a fort-night from the date of sanction of Govt. or its authorised representative.
(5) The grant shall not be transferred to any one el without the sanction of Government or its autho-rised representation.
(6) No encroachment is made on the neighbour and a breach of this together with that of the conditi ns above will render the applicant liable to can -llations of the permit and the removal of the structure.
(7) No overhead of high tension electric wires run about or near the structure within a radius of 35 feet.
(8) The allottee shall not put a protection of any kind of this shop site without the previous per-mission of the Executive Engineer concerned.

DIAGRAM OF THE SITE.

Authority

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I do hereby agree to the terms and conditions contained in the above permit.

_____
(Signature).

HSS.8/6

The Director of R.H., Bombay, has reported about the irregular and unauthorised structures put up by displaced persons in the townships and colonies and has requested that the legal position regarding removal of unauthorised and unwanted structures may be ascertained.

2. The lands under the townships and colonies for displaced persons vest in this Govt. The persons who have put up structures on these lands without obtaining sanction from the proper authority cannot claim any sort of the title or interest in the land. The structures put up by them can therefore be got removed by Govt. without giving any notice or compensation, if necessary, by use of Armed force.

3. As regards the persons who have been permitted use of plots of land but have not put structures in accordance with the terms of permit or have transferred their interest in the plots and the structures to others, the position remains to be examined. The land has been given for temporary use as per the agreement entered into by the displaced persons concerned with the Camp officers. The Camp officers are not Revenue officers and the permission given for the use of land cannot therefore be considered to have been given under the provisions of the Land Revenue Code and the rules framed thereunder. The permit given in this case is termed as 'Temporary permit' and from the terms and conditions prescribed, it is clear that the occupation allowed is for a short period and terminable at very short notice. The use of land allowed under this permit can therefore, be considered only a license and not a lease etc.

4. In the case of breach of any of the terms prescribed under the permit, the permit can be cancelled and the persons called upon to vacate the land within specified ti

As already stated the temporary permits issued can only be considered as licencees. The licencees cannot claim any sort of title or interest in the land nor can they claim any compensation for the damages that may be caused to them due to termination of the licences. The transferees i.e. those who have obtained possession of land from the original licencees cannot claim any better title or ~~interest~~ treatment. They can also therefore be asked to vacate the site on withdrawal of licencees ie. cancellation of permit. In the case of default in vacating the site on the termination of licence, the persons concerned can be treated as unauthorised occupants and they can be ejected with force.

5. Before the D. of N.H., D'bay is informed suitably on the above lines, the papers may perhaps be shown u.o. to the L.H. with a request to state if the view taken above by this Deptt. is correct. In the other case that Deptt. may be requested to advice the procedure that may be followed to remove unauthorised structures and unauthorised occupants.

Id/-

Before making a reference to the N.L.A. please consult the "Digest of N.L.A.'s opinions" to see whether N.L.A. has not already given a ruling on the points referred by the office. mentioned

Eviction of refugees from Government plots.

Office of the R.L.A.

The persons who have occupied the plots without permission are clearly trespassers; and it would be open to the Collector to evict them summarily under section 29A of the Bombay City Land Revenue Act, 1876, if the lands are within the City of Bombay, or under section 61 of the Bombay Land Revenue Code, 1879, if they are outside the City. Even under the general law a trespasser can be evicted without notice and without recourse to a court of law. In the case of persons who were given permits and who have committed a breach of the terms of the permit, similar action would be possible on termination of the permission granted to them. The position of these persons is that of licensees, and on the licence being revoked, their occupation of the plots would be unauthorised, and there would then be no objection to taking action against them under section 29A of the Bombay City Land Revenue Act, 1876, or section 61 of the Land Revenue Code, 1879, as the case may be. If any attempt is made to offer obstruction, they can also be prosecuted under section 120 of the Bombay Police Act, 1951.

Sd.
Remembrancer of Legal Affairs.

U.R. to R.H.D., No.6022, dated the 21st April 1952.

R.H.D./ B Br.

Submitted with ref. to office note dt.18-2-52.

2- The R.L.A. has upheld the view taken by this Deptt. in the matter. The D. of RH., B'bay, may now be informed on the lines of the R.L.A. opinion Draft put up.

CONFIDENTIAL

LETTER

~~CONFIDENTIAL~~

To
The Director of Rehabilitation,
BOMBAY.

NO.R.391/14581-B

Secretariat,(Annexe),Fort,
Bombay, 9th May 1952.

Subject:- Unauthorised construction in colonies in Greater Bombay and Thana -

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Reference your letter NO: R/R/Plots/General, dated the 10th November 1951

2. The persons who have occupied plots without permission are trespassers and the Collector can evict the ~~powers~~ persons concerned summarily under Section 29A of the Bombay City Land Revenue Act, 1876, if the lands are within the City of Bombay, or under section 61 of the Bombay Land Revenue Code,1879, if they are outside the City. Even under the general law a trespasser can be evicted without notice and without recourse to a court of law.

3. In the case of persons who were given permits and have committed a breach of the terms of the permit, the license given to them for occupying the plot can be revoked. After the licence is revoked, the occupation of plots will be unauthorised and action can be taken against the occupants as indicated in paragraph 2 above. If any attempt is made by any one to offer obstruction, the persons concerned can also be prosecuted under section 120 of the Bombay Police Act,1951.

Sd/-(J.C.FERNANDEZ).
For Secretary to the Government of Bombay,
Rehabilitation Department.

HSS.8/6

No.R/R/Plots/General
Directorate of Rehabilitation,
Government of Bombay,
Queen's Barracks, Cooperage,
Fort, Bombay, dt. 17th May, 1952.

To

The Administrator, Ulhasnagar Township,
All Officers Incharge, Colonies,

Subject: Unauthorised construction in colonies.

The legal position with regard to unauthorised constructions in colonies of displaced persons has been examined and it has been found that the Collectors have the necessary powers to evict the persons concerned summarily under section 29A of the Bombay City Land Revenue Act, 1876, if the lands are within the City of Bombay, or under section 61 of the Bombay Land Revenue Code, 1879, for colonies outside the city. A copy of the Government orders contained in their letter No.R.501/14581-B dated the 9th May, 1952, is enclosed.

2. With a view to prevent haphazard development of the townships and the colonies, it is essential that no new construction should be allowed to be built unauthorisedly in future. The Administrator and the Officers Incharge are, therefore, requested to maintain vigilance in this regard and take action to evict trespassers and unauthorised occupants of land and to remove unauthorised constructions as soon as such breaches come to their notice. Their attention is invited to para 2 of the Government letter quoted above that trespassers can be evicted without notice and without recourse to a court of law.

3. As regards unauthorised constructions already built, it will be a real hardship to remove them at this stage until the preparation of plans and lay outs is finalised and development work is undertaken in conformity with the plans. It is also noticed that the displaced persons have spent a considerable portion of the loans granted to them in erecting structures and kutcha shops for carrying on their business. It is, therefore, desirable to regularise these unauthorised constructions on a temporary basis until the finalisation of the lay outs of the colonies. You are, therefore, requested to approach the Collectors and to obtain orders regarding the lease of the land under the unauthorised constructions already built on a temporary basis on such terms and conditions as they consider fit and on the following conditions:-

i) That the grantee agrees to pay rent as fixed by the Collector from the date of construction.
ii) That the grantee will remove the structure without claiming any compensation:(a) without notice, if the land is required for widening the road or for any public purpose, and (b)with three months' notice if the construction interferes with the plan and lay-out of the colony.

4. With a view to enable the Collectors to take action in this regard, the Administrator and the Officers Incharge are requested to submit the following information in respect of each such unauthorised construction:-

i)Name of the trespasser,
ii)Nature and type of unauthorised construction,
iii) Area occupied,
iv)Date of consturuction,
v)The use made of the construction,
vi).....

vi) Remarks regarding rent to be charged, etc.

The Administrator and the Officers Incharge of Mulund and Akbar Colonies should submit their reports to this Directorate. The other officers incharge are requested to obtain orders of the Collectors direct under intimation to this office.

5. The compliance report of this order should be sent before the 15-6-1952.

Sd/-
Director of Rehabilitation,
Government of Bombay,

Copy forwarded with compliments to the Collectors for information and necessary action, if they see no objection, in terms of para 3 of this letter.

Copy forwarded with compliments to the Secretary, R.H.D., for information.

RS3.6/6